

1 I'm not quite sure what line.

2 MR. KNOWLES-KELLETT: Line nine,
3 I'm starting on line nine.

4 THE WITNESS: Line nine, okay.

5 BY MR. KNOWLES-KELLETT:

6 Q It starts actually after your
7 previous answer, and then I ask, "But one of
8 the purposes of your report is really to get
9 you to do a narrative statement as to his risk
10 of re-offense," and your answer is, "No
11 prediction is intended in the findings here."
12 Do you recall that to be your testimony?

13 A Yes.

14 Q Okay. Is that inconsistent with
15 the statement you just made?

16 A No.

17 Q Okay. I thought you just said --

18 A My understanding of probability in
19 actuarial terms or otherwise has said Mr.
20 Titus has a high or low or medium probability
21 of re-offense. I said he doesn't need more
22 treatment right now, which implies that the

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1 probability of re-offense would appear
2 presently low based on the data considered.

3 Q Okay. Thanks for the explanation.

4 JUDGE SIPPEL: If you want to ask
5 him, you're going to do this -- you want to
6 ask him does he still stand by the testimony
7 that he gave in his deposition?

8 BY MR. KNOWLES-KELLETT:

9 Q Okay. Do you still stand by the
10 testimony that you gave in the deposition?

11 A In this part of the deposition,
12 yes.

13 Q All right.

14 MR. LYON: Your Honor, I don't
15 have that deposition with me. If, in the
16 future, if counsel is going to refer to it,
17 I'd request the opportunity to look at the
18 statement.

19 JUDGE SIPPEL: Well, it's your
20 obligation to bring your depositions with you.

21 MR. LYON: All right. That's
22 fine.

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1 JUDGE SIPPEL: You're going to
2 have to just carry a heavier bag, unless he's
3 willing to tell you ahead of time. Some
4 lawyers do that.

5 BY MR. KNOWLES-KELLETT:

6 Q Okay. At the bottom of your
7 report, it concludes that he does not appear
8 to have pedophilic tendencies now; is that
9 correct?

10 JUDGE SIPPEL: I'm sorry. Where
11 are you in the report?

12 MR. KNOWLES-KELLETT: I'm sorry.

13 JUDGE SIPPEL: This is going to
14 be, again, Exhibit 2 at what page? Time is
15 money, Mr. Knowles-Kellett.

16 MR. KNOWLES-KELLETT: I apologize,
17 your Honor. I thought I had the notes down.

18 JUDGE SIPPEL: Well, if you don't
19 have it, then let's move on. If you've got
20 it, let's do it.

21 BY MR. KNOWLES-KELLETT:

22 Q Okay. In reaching the conclusions

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1 in your report, do you rely heavily in the lie
2 scales embedded in the tests given to Mr.
3 Titus?

4 A Yes.

5 Q Okay. Frankness and honest is one
6 of the most important findings and that they
7 support your other findings?

8 A Findings are critical because if
9 it appears that the evaluatee has been deceptive
10 then the value of the whole report comes into
11 question.

12 Q Okay. Is it critical that him
13 being forthcoming with the details of his
14 crime, his current sexual practices, and
15 interests are critical to you reading your
16 findings?

17 A Yes.

18 Q Okay.

19 JUDGE SIPPEL: Are you hearing
20 this all right, Doctor?

21 THE WITNESS: Yes, your Honor.

22 JUDGE SIPPEL: Okay, thank you.

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1 BY MR. KNOWLES-KELLETT:

2 Q Do a number of professional
3 organizations question whether a polygraph is
4 of value in a test of this type?

5 A I don't know how many question it.
6 I do know that it certainly robustly falls
7 into standard of care problems. There had
8 only been one instance that I'm aware of,
9 well, that's not true, two instances, no,
10 that's not true either, three instances where
11 the evaluator omitted the results of polygraph
12 testing. One of them was me 20-something
13 years ago. I think it was a bad mistake for
14 me not to have included it. I have very
15 serious questions, as indicated in one of the
16 appendices of this report, including the copy
17 that I have, that says the American
18 Psychological Association members should use
19 the results of polygraph testing with great
20 care and assign much greater weight to tests
21 of honest that appear in other sources, such
22 as, particularly, the lie scales. And on the

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1 other hand, if I don't include a polygraph
2 test result, I'm not meeting standards of care
3 on the West Coast, and it's just kind of
4 reassuring to me if I do get congruence with
5 all measures of honesty that it's a very, very
6 important heavy indicator of the evaluatee's
7 honesty.

8 Q Okay. And the congruence is very
9 important because it's critical that Titus is
10 frank and honest?

11 A Yes. I just said it's critical
12 for the evaluatee, for me to have some evidence
13 that the evaluatee is consistently frank and
14 honest as he's undergone general evaluation.
15 And the way I measure that is with findings
16 from the lie scales and the results of
17 polygraph testing.

18 Q Okay. The finding in this report
19 sort of hinges on the truthfulness of Titus'
20 statement that to the best of his knowledge he
21 said no sex with minors since his
22 incarceration for the adult felony; is that

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1 correct?

2 A I lost some along the way
3 somewhere.

4 Q Okay. I'm happy to repeat that
5 one. This one is important enough we'll
6 repeat it, okay. Your conclusions in this
7 report hinge really on the truthfulness and
8 honesty of Mr. Titus' statement that, to the
9 best of his knowledge, he's had no sex with
10 minors since his adult incarceration, released
11 from adult incarceration in 1995.

12 A Yes. It's important for me to
13 have confidence that when he tells me that
14 that's a true statement.

15 Q Okay. And based on that
16 statement, you can conclude that he has no
17 need for treatment? That's one of the
18 critical things in reaching your conclusion
19 that he has no need for treatment at this
20 time?

21 A A critical finding of this
22 evaluation is that Mr. Titus appears not to be

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1 in need for additional treatment for sexual
2 deviancy. The treatment he's had in the past,
3 regardless of how lurching and long it was,
4 was beneficial to him and sufficient that in
5 the last 15 years or more he appears to have
6 led a life of honesty and lawfulness and very
7 constructive in all aspects of his life.

8 Q And how much did you charge Mr.
9 Titus to do this report? How much does it ..
10 . . .

11 A Not as much as my colleagues.

12 JUDGE SIPPEL: Why do you need to
13 know that or even want to know that?

14 MR. KNOWLES-KELLETT: Your Honor,
15 how expensive this report was has a lot to do
16 with the weight that it should be given.

17 THE WITNESS: I don't know why,
18 but anyway . . .

19 BY MR. KNOWLES-KELLETT:

20 Q Page 39 in your deposition might
21 refresh your recollection.

22 A Well, I have it in my

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1 chronological notes. He gave me \$1,712, plus
2 an additional \$280, which he had paid earlier.
3 So whatever that adds up to.

4 Q Thank you. Can you define the
5 term grooming as it's used with respect to sex
6 offenders?

7 A Grooming is used in applicability
8 to sex offenders entails actions taken by a
9 pedophile to ingratiate himself with a minor,
10 such as saying things like, "Janie, I really
11 love you. We have a special relationship.
12 We'd do anything for each other." He brings
13 her candy and cookies and goodies and takes
14 her to see a kids' show of some kind, a clown
15 show of some kind, anything to ingratiate
16 himself and create a relationship with the
17 child, which he later then exploits sexually.

18 Q Do you tell your clients that it's
19 not adequate to get an ID from a prospective
20 sexual partner because there could be fake
21 IDs? Do you believe that's --

22 A I frequently mention it. Go

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1 ahead.

2 Q That you feel that it's not an
3 adequate defense that you've carded your
4 potential partner?

5 A I feel it's not an adequate
6 defense. I think the law in the State of
7 Washington says the same thing. To answer
8 your question, in discussing the many reasons
9 for not re-offending, I might say, in fact I
10 frequently have, and besides that, if nothing
11 else here, it's important for you to be aware
12 that if you ignore everything I've said and
13 did proceed to re-offend, regardless of the ID
14 the victim might be carrying, you're still
15 vulnerable to the law. I once had a judge
16 say, "I don't care if the victim had a
17 wheelbarrow full of fake ID, it's still fake
18 ID," and the actual age was the age of a
19 minor. I do say that to people.

20 JUDGE SIPPEL: It sounds like a
21 good judge.

22 THE WITNESS: Yes, he was a very

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1 good judge. Great judge.

2 BY MR. KNOWLES-KELLETT:

3 Q Okay. Mr. Lyon asked you some
4 questions about Mr. Titus' report that he's
5 had a thousand-plus sexual partners and your
6 level of concern. At your deposition, you
7 indicated that that kind of promiscuity would
8 become a subject matter in your course of
9 doing sexual treatment. Do you recall that
10 testimony?

11 A Yes.

12 Q Okay. Could you explain what you
13 meant by that?

14 A Well, the issue here is if the
15 evaluatee is spending a lot of time focused on
16 sexual matters, it just occurs to me he might
17 spend his time better in some other way. It
18 does not necessarily correlate with later
19 doing any kind of sex crime or a kind of
20 illegal behavior. I just esthetically would
21 say let's take a look at have you ever thought
22 of reading, for example, or going to movies?

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1 But there is no lockstep connection that I
2 know of with masturbation at that level or
3 rather sexual partners at that level as being
4 remarkable.

5 I had an athlete, I believe, a few
6 years ago who bragged that he had had 30,000
7 sexual partners, and one of his colleagues the
8 next day bragged, I believe, that that was
9 nothing, he had had 30,000 sexual partners or
10 30,000 female sexual partners and 30 men. And
11 I have had two clients who have had up to
12 10,000 partners. They were problematic for
13 other reasons. But Mr. Titus has had a
14 thousand partners, and it is not, in and of
15 itself, worrisome.

16 Q Okay. Does that give you any
17 concern that he's being reckless about the age
18 of his partners?

19 A I have no means of knowing that.
20 He says he's not being reckless about the age.
21 He's passed polygraph testing, and he looks
22 otherwise honest, so I tend to believe what he

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1 said until I get evidence that that's not
2 true.

3 Q Okay. When you check for
4 congruency between the polygraph test and the
5 lie scales, is that because the lie scales in
6 the tests are not always accurate?

7 A Well, partly, yes. It's because I
8 can introduce lie scale results in a court of
9 law and have very easy and extensive
10 scientifically-respectable evidence that
11 that's true; or I get a polygraph test, it's
12 usually of interest to law enforcement and
13 probation and child protective service and any
14 treater. But it's not, there are different
15 ways of getting at the extent of truthfulness.

16 Q All right.

17 A Am I answering your question?

18 Q One follow-up question on that.
19 Polygraphs are frequently inadmissible because
20 they're scientifically found to be
21 scientifically unreliable.

22 A There are two reasons, I believe,

1 in the law.

2 Q Okay. And so your primary purpose
3 in the polygraph is to check for congruency?

4 A No, my -- go ahead.

5 Q I'm sorry. Let's finish the
6 question there. Primary purpose is just to
7 check for congruency? It's to double-check
8 your lie scales?

9 A No, it is to examine the evaluatee's
10 honesty in the array of ways I have available
11 to me. I want to know whether the evaluatee has
12 been honest, and so I would look into any
13 source or data that would tell me that he's
14 been honest or not honest.

15 Q Okay. Did Mr. Titus discuss with
16 you his occasional sex in parks?

17 A He told me that there had been a
18 few occasions sometime ago, but that is not
19 his cited way of getting sex and having sex.

20 Q Okay. And you recommended to him
21 to assume that anyone without gray hair is not
22 of age?

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1 A I forgotten that I had said that,
2 but, yes, I frequently say that. A good way
3 to tell if a partner, a prospective partner
4 you don't know well, if he has gray hair he's
5 probably safe.

6 Q Okay. I think that you -- is it
7 correct that I'm characterizing your testimony
8 to Mr. Lyon that Titus must have gotten the
9 skills to remain offense-free from treatment?

10 A That's my assumption, and that's
11 what he told me.

12 Q Okay.

13 A The kind of terminology, jargoning
14 terminology that he uses when he talks about
15 those matters would tell me that he got that
16 from treatment. I don't where else he'd get
17 it.

18 MR. KNOWLES-KELLETT: Your Honor,
19 I'd like to take a one-minute break. I think
20 I'm ready to pass the witness back, but I just
21 got to check if it's okay.

22 JUDGE SIPPEL: Yes. We're going

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1 to take a break, Doctor. Why don't we do
2 this? We'll take a five-minute break. Does
3 that give you enough time to do whatever you
4 want to do?

5 THE WITNESS: Yes, your Honor.

6 JUDGE SIPPEL: All right. We'll
7 come back in five minutes. Thank you, sir.

8 (Whereupon, the foregoing matter
9 went off the record at 4:19 p.m. and went back
10 on the record at 4:27 p.m.)

11 JUDGE SIPPEL: Back on the record.
12 Are you set, Mr. Reporter? We're set.

13 MR. KNOWLES-KELLETT: I have no
14 further questions, your Honor.

15 JUDGE SIPPEL: Thank you, Mr.
16 Knowles-Kellett.

17 CROSS EXAMINATION

18 BY MR. LYON:

19 Q Doctor, I wish I could say I had
20 none, but I only have one. That is the amount
21 that you charged Mr. Titus for your
22 psychosexual evaluation, did that represent a

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1 significant amount of your income for 2007?

2 A No.

3 Q Would it represent a significant
4 amount of your income for 2008?

5 A No.

6 MR. LYON: Nothing further.

7 JUDGE SIPPEL: Go ahead. You want
8 to add to that, Doctor?

9 THE WITNESS: Well, I had been in
10 the hospital, so during those months, yes, it
11 was very significant right then. But,
12 otherwise, you know, not in the big scheme of
13 things. And I recovered now.

14 JUDGE SIPPEL: Your own medical
15 bills were probably higher, am I to assume
16 that?

17 THE WITNESS: Oh, unfortunately,
18 your Honor, they're much higher.

19 JUDGE SIPPEL: I hope you recover
20 well.

21 MR. KNOWLES-KELLETT: Your Honor,
22 may I approach?

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1 JUDGE SIPPEL: Yes, please do.
2 But before we do this, we're just going to put
3 a document in, but we're going to excuse you
4 as soon as I can. I want to ask you two
5 things. First of all, and this is my
6 characterization, but it seems when I was
7 listening to you -- was it psychopathy -- and
8 the reference to actuarials that you're not a
9 big fan of actuarials.

10 THE WITNESS: Well, I recently
11 attended the training, as I said. I know
12 personally a couple of the authors. And I'm
13 also aware that they have come into some
14 question in recent years. I dislike relying
15 solely on numbered data. I like to employ a
16 little judgment. For example, a recent
17 history of behavior is important, and that's
18 nary. So I suspect that actuarials will
19 ultimately find a place in this business, and
20 I think it will not be the end-all and be-all
21 that people originally thought they might.

22 JUDGE SIPPEL: If you feel

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1 comfortable stating this on the record, what
2 would be your estimate as to the reliability
3 that it is afforded in the profession? In
4 other words, do the majority of doctors in
5 your line of work work with actuarials? Is it
6 about 50/50? Is it a minority view?

7 THE WITNESS: Your Honor, I can
8 only guess. What I see coming in from my
9 colleagues into my office --

10 JUDGE SIPPEL: Well, I don't want
11 a guess. What about the literature? Have you
12 seen anything in the literature? A guess is
13 no good.

14 THE WITNESS: That would predict
15 what percent are being -- I've never seen any
16 assessment as to what percent of current
17 psychosexual evaluations include actuarial
18 data.

19 JUDGE SIPPEL: Okay. Let me move
20 on to one other thing. The term has come up
21 in several contexts about pedophiles or
22 pedophilia. Now, taking the conduct of record

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1 of Mr. Titus that's the subject of this
2 proceeding, which concerns minors, would you
3 say that the conduct that he was engaging in
4 was pedophilic conduct or conduct of a
5 pedophile?

6 THE WITNESS: The behaviors he
7 engaged in on those occasions when he himself
8 was a minor or at least adolescent were
9 pedophilic acts. That doesn't mean it rises
10 to the standard, to the diagnostic standard of
11 pedophile. And I'd have to have the manual in
12 front of me and check things out. The
13 duration was six months. His primary interest
14 at that time was people who were minors. But
15 since then, none of those criteria apply. So,
16 yes, I wouldn't even say he has pedophilic
17 tendencies at the present time. I'd say that
18 he has a history as an adolescent and pre-
19 adolescent of pedophilic behavior.

20 JUDGE SIPPEL: In your opinion --
21 well, then what I'm hearing you say is that
22 you really don't have an opinion or your

1 opinion would be negative as to his being
2 called the term a pedophile today, from a
3 professional standpoint.

4 THE WITNESS: No. There are many
5 reasons why today why he could not be
6 diagnosed as a pedophile.

7 JUDGE SIPPEL: What would be your
8 best reason?

9 THE WITNESS: Best reason is is
10 that he expresses having not had interest
11 during the past six months or even years of
12 interest sexually in kids that was exclusive
13 or predominant. So with that alone makes him
14 not diagnosable today as a pedophile.

15 JUDGE SIPPEL: I should have asked
16 you this probably up-front, but can you give
17 me a definition, if you have one to read from
18 that's fine, but the definition of a
19 pedophile?

20 THE WITNESS: I don't have one. I
21 would always go to the manual and double-
22 check. One is that the predisposition of

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1 exclusive or near-exclusive interest in minors
2 has existed for at least six months.

3 JUDGE SIPPEL: All right. Now,
4 the ones that I read about in the paper, and,
5 again, this is maybe getting a little off the
6 course here, but these clergy cases, and
7 they're constantly being referred to as
8 pedophiles. I take it because of the -- well,
9 what is it that puts them in that category?
10 Is it generally an honest reporting that they
11 are pedophiles, and what are the
12 characteristics that put them in that
13 category?

14 THE WITNESS: Well, your Honor, I
15 don't have what's called the DSM-IV, the
16 Diagnostic and Statistical Manual published by
17 the American Psychiatric Association, but
18 before I make a diagnosis of anybody I turn to
19 that manual and I look in the checklist and I
20 make checks down the side of the page where
21 the requirements are present. And if they
22 don't meet those requirements, he doesn't

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1 qualify as a pedophile. What the newspaper
2 says, it may include use of the word pedophile
3 and pedophilia, but that doesn't make the
4 person a pedophile. He may be a pedophile,
5 but you have to demonstrate by meeting the
6 criteria. One is that he's been interested
7 exclusively or almost exclusively in becoming
8 involved sexually with a minor, and that
9 predisposition has spanned at least six
10 months.

11 JUDGE SIPPEL: All right. And
12 from your professional observation, that does
13 not apply here?

14 THE WITNESS: It doesn't apply
15 here currently, and I think if we took a
16 careful look -- well, it wouldn't apply anyway
17 because of his young age originally.

18 JUDGE SIPPEL: It has to be an
19 adult? I'm sorry. Go ahead and finish, sir.

20 THE WITNESS: Having engaged in
21 pedophilic behavior on some occasions does not
22 necessarily result in a diagnosis of

1 pedophile. If he's got tendencies, pedophilic
2 predisposition, pedophilic history, but it
3 doesn't qualify for the diagnosis of a
4 pedophile.

5 JUDGE SIPPEL: All right. That's
6 all I have, Doctor. Thank you.

7 MR. KNOWLES-KELLETT: Can I ask
8 one follow-up question, your Honor? I'd like
9 to follow-up on your question.

10 JUDGE SIPPEL: Sure, yes.

11 RE-REDIRECT EXAMINATION

12 BY MR. KNOWLES-KELLETT:

13 Q Okay. Dr. Allmon, could you look
14 at EB Exhibit 4, page 28, the first full
15 paragraph on that page under medication? This
16 is a treatment summary from around the time
17 when he first entered into your treatment. I
18 believe this is one of the documents reviewed
19 from your report.

20 JUDGE SIPPEL: Do you want to
21 direct the doctor to a specific section?

22 BY MR. KNOWLES-KELLETT:

1 Q Yes. The paragraph that says
2 medication, if you read that whole paragraph.

3 JUDGE SIPPEL: Just read it to
4 yourself, Doctor, please.

5 THE WITNESS: I've completed
6 reading the statement.

7 BY MR. KNOWLES-KELLETT:

8 Q Yes. My question is does that
9 refresh your recollection as to whether he had
10 a diagnosis of pedophile at the time he
11 entered your treatment?

12 A Well, if he is -- I want to just
13 see the manual and should make a checklist.

14 Q Okay.

15 A We're talking here about ancient
16 history. It's my task to render a diagnosis
17 that works in the current moment.

18 Q Thank you.

19 A And as far as I can tell,
20 regardless of what he may have done as an
21 adolescent, pre-adolescent, today he seems to
22 be a highly well-functioning man with none of

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